

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SAMI AL-SHAHIN,

Plaintiff,

v.

U.S. DEPARTMENT OF
HOMELAND SECURITY,
et al.,

Defendant

Civil Action No. 06-5261 (KSH)

ORDER

KATHARINE S. HAYDEN, U.S.D.J.

For the reasons expressed in the Court's Opinion filed herewith,

It is on this 3th day of October, 2007,

ORDERED that the Clerk of the Court is directed to RE-OPEN this action; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(a), the application by plaintiff to proceed in forma pauperis is hereby granted; and it is further

ORDERED that the Clerk of the Court is directed to file the Complaint without prepayment of the filing fee; and it is further

ORDERED that the Complaint is **DISMISSED WITH PREJUDICE**, in its entirety, as against the United States Department of Homeland Security and the Bureau of Immigration and Customs Enforcement, based on sovereign immunity, pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii); and it is further

ORDERED that plaintiff's claim asserting denial of access to the courts is **DISMISSED WITHOUT PREJUDICE**, in its entirety as against all remaining named defendants, for failure to state a claim at this time; and it is further

ORDERED that plaintiff's claims alleging mere verbal harassment and denial of equal protection are **DISMISSED WITH PREJUDICE**, in their entirety as against all remaining named defendants, pursuant to 28 U.S.C. § 1915(E)(2)(b)(ii), for failure to state a claim upon which relief may be granted; and it is further

ORDERED that plaintiff's claims alleging unconstitutional conditions of confinement, denial of dental and medical care, unconstitutional cell searches, failure to train and/or supervise, failure to protect, conspiracy, failure to investigate, and retaliation **SHALL PROCEED** at this time as against all remaining, named defendants; and it is further

ORDERED that the Clerk of the Court shall issue summons, and the United States Marshal shall serve a copy of the Complaint, summons, and this Order upon the remaining defendants, pursuant to 28 U.S.C. § 1915(d), with all costs of service advanced by the United States; and it is further

ORDERED that the remaining defendants shall file and serve a responsive pleading within the time specified in Federal Rule of Civil Procedure 12, pursuant to 42 U.S.C. § 1997e(g)(2); and it is further

ORDERED that plaintiff shall file a supplemental affidavit respecting his motion for appointment of counsel that provides current information concerning his financial status, continued desire for appointed counsel, availability to cooperate with counsel for purposes of preparing his case. Said affidavit shall be filed within 10 days of this order. The Court shall rule on the motion for appointed counsel thereafter.

/s/ Katharine S. Hayden

KATHARINE S. HAYDEN
United States District Judge